

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

CSX TRANSPORTATION, INC.,)
individually and on behalf of NORFOLK)
& PORTSMOUTH BELT LINE)
RAILROAD COMPANY,)

Plaintiff,)

v.)

Case No. 2:18-cv-530

NORFOLK SOUTHERN RAILWAY)
COMPANY, NORFOLK &)
PORTSMOUTH BELT LINE RAILROAD)
COMPANY, and CANNON MOSS,)

Defendants.)

JOINT MOTION TO STAY CASE DUE TO THE CORONAVIRUS

Plaintiff CSX Transportation, Inc. (“CSXT”), Defendant Norfolk Southern Railway Company (“NSR”), and Defendant Norfolk & Portsmouth Belt Line Railroad Company (“NPBL”), by counsel, and pursuant to Rule 16(b)(4) of the Federal Rules of Civil Procedure, hereby jointly move this Court to stay this case and vacate all existing deadlines, including trial, pending rescheduling all of them at a date certain in April.

In support of this Motion, the Parties respectfully state:

1. On October 25, 2019, the Court entered a Scheduling Order in this case, setting numerous deadlines including the conclusion of fact discovery, expert disclosures, and dispositive motion briefing. ECF No. 78.

2. In addition to the discovery already completed, the Parties have been coordinating and making arrangements to conduct twelve additional depositions across the country, including in Atlanta, Georgia, Jacksonville, Florida, Corpus Christi, Texas, and Norfolk, Virginia. These

depositions are slated to begin on March 18, 2020 and continue through the currently scheduled close of fact discovery on March 30, 2020.

3. Counsel for the parties in this litigation are located in Virginia Beach/Norfolk, Richmond, and the District of Colombia.

4. On March 11, 2020, the World Health Organization (“WHO”) publicly characterized the novel Coronavirus (SARS-CoV-2) and related coronavirus disease 2019 (COVID-19),¹ as a pandemic.²

5. As a result, certain of the Parties and their counsels’ law firms have imposed travel restrictions on their employees and visitation bans as to non-employees until further notice.

6. These travel restrictions are consistent with the Center for Disease Control’s Situation Summary, which describes the outbreak as a “rapidly evolving situation” and asserts that “CDC expects that widespread transmission of COVID-19 in the United States will occur.”³

7. Moreover, states across the country, including where counsel reside, are closing schools, courts, and otherwise imposing quarantines making travel ill-advised.

8. While the Parties desire to expeditiously bring this litigation to its conclusion, the situation before the Parties is an exceptional one that justifies – if not necessitates – a short stay in this case.

¹ See Naming the coronavirus disease (COVID-19) and the virus that causes it, [https://www.who.int/emergencies/diseases/novel-coronavirus-2019/technical-guidance/naming-the-coronavirus-disease-\(covid-2019\)-and-the-virus-that-causes-it](https://www.who.int/emergencies/diseases/novel-coronavirus-2019/technical-guidance/naming-the-coronavirus-disease-(covid-2019)-and-the-virus-that-causes-it) (last accessed March 16, 2020.)

² See WHO Director-General’s opening remarks at the media briefing on COVID-19 – 11 March 2020; <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020> (last accessed March 16, 2020.)

³ See Coronavirus Disease 2019 (COVID-19) Situation Summary, updated Mar. 12, 2020; <https://www.cdc.gov/coronavirus/2019-nCoV/summary.html> (last accessed March 16, 2020.)

9. Accordingly, the Parties respectfully request a thirty (30) day stay of this case to give the parties time to evaluate the appropriate manner to proceed in light of the coronavirus. The Court has already continued the settlement conference that was scheduled for March 24, 2020.

10. The Court has broad authority to control its docket. *See, e.g., Dominion Energy, Inc. v. City of Warren Police & Fire Ret. Sys.*, 928 F.3d 325, 335 n.8 (4th Cir. 2019) (noting that “the power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket” (quoting *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936))).

11. On or before **April 16, 2020**, the Parties will submit a status report to the Court with recommendations for proceeding and a request for a telephonic status conference with the Court.

12. This is a joint request from the Parties and, therefore, there will be no prejudice to any Party.

13. This request is submitted in good faith and is not intended to cause unnecessary burden or needless expense.

14. This request is in keeping with the Court’s recent orders, including that on March 16, 2020.

15. For the foregoing reasons, good cause exists to stay this case for thirty (30) days and vacate all existing deadlines, including trial, pending rescheduling.

WHEREFORE, Plaintiff CSXT, Defendant NSR, and Defendant NPBL, respectfully request that the Court grant this Joint Motion and enter the attached Proposed Order.

Dated: March 17, 2020

Respectfully submitted,

NORFOLK SOUTHERN RAILWAY COMPANY

/s/ John C. Lynch

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CERTIFICATE OF SERVICE

I hereby certify that on March 17, 2020, I electronically filed a copy of the foregoing with the Clerk of Court using the CM/ECF system, which sent a notification of such filing (NEF) to the registered participants as identified on the NEF to receive electronic service, including:

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